

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

EGENERA, INC.,

Plaintiff,

v.

CISCO SYSTEMS, INC.,

Defendant.

Civil Action No. 1:16-cv-11613

JURY TRIAL DEMANDED

**DEFENDANT CISCO SYSTEMS, INC.’S RENEWED MOTION FOR SUMMARY  
JUDGMENT OF NO PRE-SUIT DAMAGES, INDIRECT INFRINGEMENT, OR  
WILLFULNESS**

Pursuant to the Court’s November 16, 2020 Electronic Order (DN 296), Defendant Cisco Systems, Inc. (“Cisco”) hereby renews its previously filed Motion for Summary Judgment of No Pre-Suit Damages, Indirect Infringement, or Willfulness. The motion, briefs in support, opposition, and reply, and supporting filings bear the following docket numbers and should all be renewed in full:

1. DN 145 - Cisco’s Motion for Summary Judgment of No Pre-Suit Damages, Indirect Infringement, or Willfulness;
2. DN 146 - Cisco’s Opening Brief in Support of Its Motion for Summary Judgment of No Pre-Suit Damages, Indirect Infringement, or Willfulness;
3. DN 154 - Declaration of Michael R. Rhodes in Support of Defendant Cisco’s Motions for Summary Judgment and to Exclude the Testimony of Egenera Inc.’s Experts;
4. DN 176 - Egenera, Inc.’s Response to Cisco’s Statement of Undisputed Material Facts and Egenera, Inc.’s Counter Statement of Undisputed Material Facts Regarding Cisco’s

Motion for Summary Judgment of No Pre-Suit Damages, Indirect Infringement, or Willfulness;

5. DN 177 - Egenera, Inc.'s Response in Opposition to Cisco's Motion for Summary Judgment of No Pre-Suit Damages, Indirect Infringement, or Willfulness;
6. DN 178 - Declaration of James E. Quigley in Support of Egenera, Inc.'s Response in Opposition to Cisco's Motion for Summary Judgment of No Pre-Suit Damages, Indirect Infringement, or Willfulness;
7. DN 192 - Cisco's Reply to Egenera, Inc.'s Opposition to Cisco's Motion for Summary Judgment of No Pre-Suit Damages, Indirect Infringement, or Willfulness;
8. DN 198 – Declaration of Ryan T. Lawson in Support of Cisco's Replies to Egenera, Inc.'s Oppositions to Cisco's Motions for Summary Judgment and to Exclude the Testimony of Egenera, Inc.'s Experts.

Egenera does not oppose Cisco's request to renew the above motion, briefs in support, opposition, and reply, and supporting filings in full.

#### **REQUEST FOR ORAL ARGUMENT**

Pursuant to Local Rule 7.1(d), Cisco requests oral argument on this motion.

#### **LOCAL RULE 7.1(a)(2) CERTIFICATION**

Pursuant to Local Rule 7.1(a)(2), the undersigned counsel certifies that counsel for Cisco conferred with counsel for Egenera in a good faith effort to resolve or narrow the issues raised in this motion.

Dated: November 17, 2020

By: /s/ Peter C. Magic

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 17<sup>th</sup> day of November 2020, a true copy of the above document was served upon all attorneys of record through the Court's ECF system.

/s/ William E. Gildea

William E. Gildea